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December 9, 2002

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Marlene H. Dortch, Secretary
Federal Communications Commission
c/o Vistronix, Inc.
236 Massachusetts Avenue, NE, Suite 110
Washington, DC 20002

RE: File No. MB Docket No. 02-322
RM-10584
FM Broadcast Stations, Opelousas, LA

Dear Ms. Dortch:

Transmitted herewith, on behalf of Opelousas Radio Broadcasters, are **an** original and four copies of the **COMMENTS OF OPELOUSAS RADIO BROADCASTERS**, in response to the Commission's Notice of Proposed Rulemaking regarding the allocation of Channel 279A to Opelousas, Louisiana.

Should further information be necessary regarding this submission, kindly communicate directly with this office.

Sincerely,



John M. Pelkey

Enclosures
JMP/sdt

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please reply to JOHN M. PELKEY jpelkey@gsbluw.com TEL EXT 2528

Before The
Federal Communications Commission

Washington, D.C. 20554

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DEC - 9 2002

In re Amendment of

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Section 73.202(b)

)

Table of Allotments

)

FM Broadcast Stations

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Opelousas, LA

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MB Docket No. 02-322

RM-10584

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: Assistant Chief, Audio Division

Comments of Opelousas Radio Broadcasters

By Petition for Rule Making filed July 19, 2002, Opelousas Radio Broadcasters (referred to herein as "ORB") requested that the Commission institute a rule making proceeding to amend Section 73.202(b) of the Commission's rules, the Table of FM Allotments, by allotting Channel 279A to Opelousas, Louisiana, as that community's third local FM transmission service. In response, the Commission released a Notice of Proposed Rule Making ("*NPRM*") in the above-captioned proceeding proposing the requested change to the Table of Allotments and soliciting the submission of comments by December 9, 2002.¹ At one point, the *NPRM* incorrectly states that ORB had requested the allotment of Channel 297A, rather than Channel 279A, to Opelousas. The chart included in the *NPRM* that lists the present and proposed allocations for Opelousas, however, correctly specifies Channel 279A as the channel that would be allotted to

¹ See *NPRM*, MB Docket No. 02-322 (RM-10584), DA 02-2601 (adopted October 2, 2002, released October 18, 2002).

Opelousas if the rule making were adopted. The Commission's FM database also lists Channel 279A as being the channel being considered for allotment to Opelousas in this rule making. In addition, it is clear from footnote 3 to the *NPRM* that the spacing study performed for the rule making was premised on the allocation of Channel 279, not Channel 297, to Opelousas. It thus appears that the reference to Channel 297 was a typographical error and these Comments assume that the Commission's proposal is to allot Channel 279A to Opelousas.

ORB, through counsel, hereby submits its comments in response to the *NPRM*. As will be shown below, the proposed rule making is consistent with Commission policy and would advance the public interest. Accordingly, the proposed rule making should be adopted.

I. Opelousas is a Community in Need of Additional Broadcast Service.

In its Petition for Rule Making, which is hereby incorporated by reference, ORB requested that the Table of Allotments be amended to allocate Channel 279A to Opelousas, Louisiana, so as to permit the provision of that community's third local FM transmission service. Opelousas, Louisiana, which is the third oldest city in Louisiana, is the parish seat of St. Landry Parish. According to the 2000 Census, it boasts a population of 22,860 persons. It is governed by a Mayor, Alderman and City Council. It has its own post office. Police protection is provided by the Opelousas Police Department, while the city Fire Department protects the homes and businesses of Opelousas from the ravages of

fire. The children of Opelousas are educated at several schools located within the city, including Creswell Elementary, Grolee Elementary, Opelousas High School and Opelousas Senior High School. Opelousas is also home to numerous businesses, including eight different banks; two hospitals, including Opelousas General Hospital; restaurants; and at least eight hotels, including the Quality Inn of Opelousas. The city's residents are served by several newspapers, including the Daily World, a Gannett newspaper published in Opelousas.

Even though Opelousas would be considered to be an important community solely by virtue of its role as the political and social center of St. Landry Parish, its importance is magnified by the fact that it is known as the "Zydeco Music Capital of the World," a fact that swells Opelousas's ranks by attracting thousands of people to Opelousas every year. Visitors flock to Opelousas to listen to the Main Street Concerts held in downtown Opelousas every spring, to attend the Louisiana Yambilee Festival usually held the last weekend of October or to walk around Old Opelousas, which is a National Historic District.

Despite Opelousas's status, it enjoys only two fulltime FM stations. Allocation of Channel 279A would remedy this deficiency.

II. Allocation of Channel 279A to Opelousas would Well Serve the Commission's Allocations Priorities and thus would be in the Public Interest, while Fully Abiding with the Commission's Technical Requirements.

The allocation of Channel 279A to Opelousas would be in the public interest.

The proposal would permit Opelousas to enjoy its third local full-service FM transmission service and would provide an additional interference free service to 29,902 persons in an area of 216.4 square kilometers, thereby serving priority 4 of the Commission's allocation priorities.²

In addition, as was indicated in the *NPRM*, Channel 279A can be allotted to Opelousas consistent with the minimum distance separation requirements of the Commission's rules if a site restriction of 7.3 kilometers south is imposed.³ Moreover, as was demonstrated by ORB in its Petition for Rule Making, the requisite principal community coverage of Opelousas would be achieved from those coordinates.⁴

III. ORB Reaffirms its Commitment to Apply for the Requested Facilities and Construct those Facilities Promptly.

In its Petition for Rule Making, ORB committed that, if the proposed amendment to the Table of Allotments were adopted, it would promptly apply for an authorization to construct the new facilities and, if it were awarded the construction

² As the Commission explained in *Revision of FM Assignment Policies and Procedures*, the FM allotment priorities are: (1) first full-time aural service; (2) second full-time aural service; (3) first local service; and (4) other public interest matters (with co-equal weight being given to priorities (2) and (3)). 90 FCC2d 88, 91 (1982).

³ The proposed reference coordinates are 30-28-18 NL; 92-03-14 WL

⁴ *Petition for Rule Making* at 3 and Ex. 2.

permit, to construct the new facilities promptly.’ ORB hereby reaffirms that earlier commitment and, in accordance with paragraph 2 of the Appendix to the *N P M*, specifically states its intention to apply for Channel 279A if that channel is allocated to Opelousas, and, if authorized, to promptly construct the new facilities, place the facilities in operation, and **seek** a license covering the construction of the facilities.

IV. Conclusion

The above facts demonstrate that the Commission’s allocation criteria would be well served by the allocation of Channel 279A to Opelousas, Louisiana, as such allocation would provide that community with additional broadcast service. In addition, inasmuch as the allocation to Opelousas complies with all separations requirements and would allow city grade coverage of all of Opelousas, the proposal is consistent in all respects with the Commission’s rules.

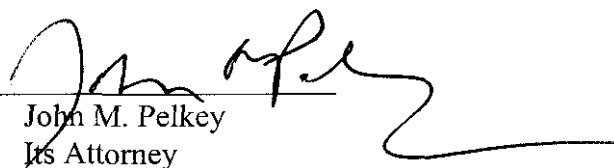
⁵ *Petition for Rule Making* at 3.

Accordingly, ORB respectfully requests that the Table of FM Allotments be amended as follows:

Community	Present Allotment	Proposed Allotment
Opelousas, Louisiana	290A, 296A	279A, 290A, 296A

Respectfully submitted,

Opelousas Radio Broadcasters

By: 
John M. Pelkey
Its Attorney

Garvey Schubert Barer
5th Floor, 1000 Potomac Street, N.W.
Washington, DC 20007

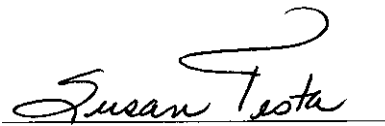
202/965-7880

Date: December 9, 2002

CERTIFICATE OF SERVICE

I, Susan Testa, a secretary in the law offices of Garvey Schuhert Barer, hereby certify that I have on this 9th day of December, 2002, sent copies of the enclosed **“COMMENTS OF OPELOUSAS RADIO BROADCASTERS”** by hand-delivery to the following:

Rolanda Smith
Federal Communications Commission
Media Bureau
445 Twelfth Street, SW, Room 3-A320
Washington, DC 20554



Susan Testa